

R E M A R K S

The above amendments to claims 1 to 3 and 5 to 8 are supported on page 5, line 5 of the specification and also by paragraphs 0028, 0045 and 0046 of the specification.

With respect to Rule 116, entry of the above amendments is respectfully requested, since such amendments place the application in better form for allowance or for appeal, if an appeal is necessary.

The presently claimed invention concerns a conjugated fatty acid with conjugated double bonds within the molecule, wherein the conjugated fatty acid forms an ester bond with glycerol to form a conjugated fatty acid in which the content of the conjugated fatty acid is above 20 weight %.

As described in paragraph 0045 of the present specification, to incorporate a conjugated fatty acid glyceride at an effective amount which provides the desired physiological effects (1 to 3 g daily in case of conjugated linoleic acid, for example) within an appropriate fat intake range, the content of a conjugated fatty acid in the derivative is preferably above 20 weight %. When the content of the conjugated fatty acid in the glyceride is less than 20 weight %, 5 to 15 g of the derivative is incorporated, which leads to an increase of calorie intake, so that the possible desired physiological effects of the conjugated fatty

acid, for example, decreasing of body fat and providing a prophylactic effect with respect to cancer, are potentially reduced.

Claims 1 to 2 and 9 to 14 were rejected under 35 USC 102 as being anticipated by Timmermann et al. (USP 6,177,580) for the reasons indicated beginning at the bottom of page 2 and continuing to the top of page 3 of the enclosed Office Action.

Timmermann et al. (USP 6,177,580) disclose a process for making synthetic triglycerides by esterification of a glycerol with a fatty acid mixture containing at least 50% by weight, based on the weight of the fatty acid mixture, of conjugated linoleic acid ("CLA") to form a glyceride. Timmermann et al. also disclose that a glyceride prepared by the process has a composition of 95wt% of triglyceride of CLA, 3wt% of diglyceride of CLA and 2wt% of monoglyceride of CLA (see Example 3 in column 5, lines 30-35 of Timmermann et al.). However, Timmermann et al. does not disclose that the content of CLA in the CLA glyceride is above 20 wt%. Accordingly, the glyceride taught by Timmermann et al. differs from the conjugated fatty acid glyceride recited in the presently claimed invention.

Claims 3 to 8 and 15 to 17 were rejected under 35 USC 103 as being unpatentable over Timmermann et al. (USP 6,177,580) in view of Cook et al. (USP 5,554,646) for the reasons set forth

beginning at the middle of page 3 and continuing to the bottom of page 5 of the Office Action.

It was admitted in the Office Action that Timmermann et al. fail to specify the method of treating obesity, improving lipid metabolism or treating hyperlipidemia as claimed by applicants.

As discussed above, Timmermann et al. (USP 6,177,570) teach a synthetic glyceride which differs from the conjugated fatty acid glyceride of the present claimed invention. Further, Timmermann et al fail to teach a soybean milk, a capsule or a tablet form, as recited in applicants' claims.

Cook et al. (USP 5,554,646) teach a method of reducing body fat and a method of preventing loss of protein using compositions containing conjugated linoleic acid ("CLA"). Cook et al. disclose only free CLAs or CLA salts, which have no relation to conjugated fatty acid glycerides.

Cook et al. disclose the following in column 5, lines 14-20:

"...the amount of CLA employed as a pharmaceutical for humans will range from about 1,000 parts per million (ppm) to about 10,000 ppm of CLA of the human's diet. However, the upper limit of the amount to be employed is not critical because CLA is relatively non-toxic and it is a normal constituent of the human diet including human breast milk."

Accordingly, Cook et al. do not teach the use of CLA glycerides which is not involved in a "normal constituent of the human diet".

Furthermore, in column 5, lines 30-35, Cook et al. state the following:

"The amount of CLA to be added to an animal's feed to reduce body fat can range from 0.01% to 2% or more by weight of the animal's or human's food. It can be added to the food by adding either relatively pure CLA to the food or by adding by-products, such as the fat of an animal which was fed CLA, to the food."

Thus, Cook et al. do not teach the use of CLA glycerides which is not "a pure CLA".

Therefore, it is respectfully submitted that it would not have been obvious for one of ordinary skill in the art at the time of the instant invention to use triglycerides containing more than 20wt% of CLA for controlling body fat and hyperlipidemia, for the following reasons:

- (a) Timmermann et al. do not teach or suggest CLA glycerides in which the content of CLA is above 20wt%;
- (b) Cook et al. disclose only free CLAs or CLA salts, but not CLA glycerides;
- (c) Cook et al. do not teach or suggest the use of CLA glycerides which is not involved in "a normal constituent of the human diet"; and
- (d) Cook et al. do not teach or suggest the use of CLA glycerides which is not "a pure CLA".

Moreover, it is respectfully submitted that it would not have been obvious for one of ordinary skill in the art at the time of the instant invention to use the triglycerides of Timmermann et al. in place of the CLA of Cook et al. for reducing body fat for the aforesaid reasons (a) to (d):

"(d)" Cook et al. do not teach or suggest the use of CLA glycerides which is not "a pure CLA";

"(c)" Cook et al. do not teach or suggest the use of CLA glycerides which is not involved in "a normal constituent of the human diet";

"(b)" Cook et al. disclose only free CLAs or CLA salts, but not CLA glycerides; and

"(a)" Timmermann et al. do not teach or suggest CLA glycerides in which the content of CLA is above 20wt%.

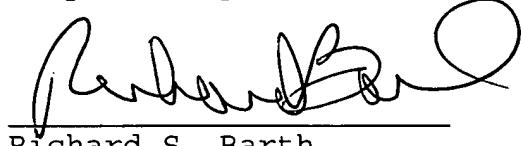
It is therefore respectfully submitted that applicants' claimed invention is not anticipated or rendered obvious over the references, either singly or combined in the manner relied upon in the Office Action in view of the distinctions discussed hereinabove. It is furthermore submitted that there are no teachings in the references to combine them in the manner relied upon in the Office Action.

Reconsideration is requested. Allowance is solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

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Respectfully submitted,



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Encs.: (1) PETITION FOR EXTENSION OF TIME and check  
in amount of \$950.00  
(2) NOTICE OF APPEAL and check in amount of \$330.00